

RESOLUTION NO.: 10-137

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, RELEASING DECLARATION OF RESTRICTIVE COVENANTS SIGNED ON AUGUST 29, 2008 TO BE SUBSTITUTED WITH A NEW DECLARATION OF RESTRICTIVE COVENANTS ON **PROPERTY LOCATED AT 326 WEST 11 STREET, HIALEAH, FLORIDA**; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a Declaration of Restrictive Covenants was made and signed in favor of the City of Hialeah, Florida, on August 29, 2008, limiting the number of patient beds available on site to nineteen and restricting the type of patient serviced by the facility to elderly patients only; and

WHEREAS, the property owner has made and signed a new, more restrictive Declaration of Restrictive Covenants (attached as "Exhibit A"), further reducing the number of patient beds available at the facility from nineteen to seventeen and committed to building a 6-foot privacy prefabricated wall; and

WHEREAS, the new Declaration of Restrictive Covenants benefits the health, safety, and welfare of the community and should be accepted.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1. The foregoing facts and recitations contained in the preamble of this resolution are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Mayor and the City Council of the City of Hialeah, Florida hereby release the Declaration of Restrictive Covenants signed on August 29, 2008 and in lieu thereof accepts the new Declaration of Restrictive Covenants (attached as "Exhibit A"). The property located at 326 West 11 Street, Hialeah, Florida.

Section 3: This resolution shall become effective upon signature of the Mayor of the City of Hialeah, Florida or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 28th day of December,

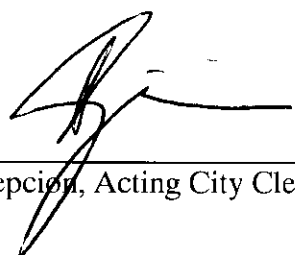
2010.



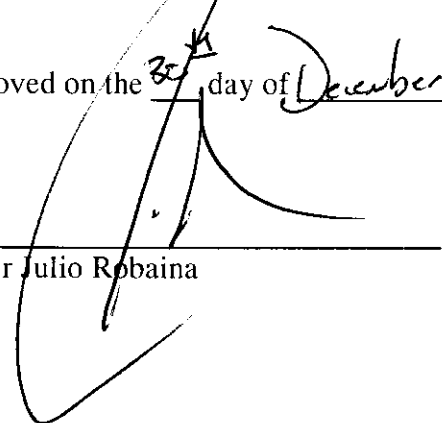
Carlos Hernandez
Council President

Attest:

Approved on the 30th day of December, 2010.

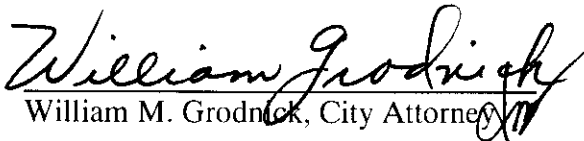


David Concepcion, Acting City Clerk



Mayor Julio Robaina

Approved as to legal sufficiency and form:



William M. Grodnick, City Attorney

DECLARATION OF RESTRICTIVE COVENANTS



CFN 2011R0316013
OR Bk 27688 Pgs 0474 - 479; (6pgs)
RECORDED 05/13/2011 14:13:58
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

DECLARATION OF RESTRICTIVE COVENANTS

I, LUIS E. BENITEZ, as managing member and with full authority to legally bind ACL & J, LLC, a Florida limited liability corporation, being the owner of the land described herein:

Lot 10, in Block 51, of HIALEAH FIFTH ADDITION, according to the Plat thereof, as recorded in Plat Book 7, Page 93, of the Public Records of Miami-Dade County, Florida.

The street property address is 326 West 11th Street; Hialeah, Florida 33012
The folio numbers are 04-3118-009-0310

hereby release the Declaration of Restrictive Covenants made and signed by Ada K. Perez, as President of Kathy's Loving Facility A.L.F. II, Corp., my predecessor in interest, on August 29, 2008, in favor of the City of Hialeah, Florida, covering and running with the above property; and

in its stead, make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The premises, being legally described above, shall be used and licensed to operate an assisted living facility (ALF) exclusively for elderly patients, with the capacity to provide standard care services and limited nursing and mental health services only, pursuant to F.S. Ch 429 as amended, with a total licensed bed capacity not exceeding seventeen (17). The undersigned covenants not to obtain a license to provide extended congregate care services or admit residents or patients who require consistent monitoring, supervision and/or twenty-four hour nursing supervision or assistance with personal services or supportive services in a manner that would disqualify them from residency at the premises according to the admissions criteria established for facilities providing standard care. The property owner or business operator will not accept court referrals.
2. All State licenses for the operation of an assisted living facility pursuant to F.S. Ch 429, as amended, must be submitted annually for review by the City of Hialeah Zoning Division.
3. The property owner will construct a 6-foot privacy prefabricated wall, the features and design of which shall be the same or equivalent to the prefabricated wall featured in Exhibit A attached hereto, in compliance with the City's zoning and building codes along the rear/south and west side boundary within 180 days from the effective date of the Declaration of Restrictive Covenants. Thereafter, the property owner will repair and maintain the wall.
4. Provided that all conditions reflected in this Declaration of Restrictive Covenants have been met, the City of Hialeah hereby agrees to issue an occupational license allowing for the operation of an assisted living facility on the premises.
5. As a means of enforcement for any violations of these restrictions, the undersigned consents to

Ex-10-137

DECLARATION OF RESTRICTIVE COVENANTS

the revocation of the business tax receipt and loss of enjoyment of the benefits of the legal nonconforming use. Thereafter, the premises shall only be developed pursuant to the applicable regulations of the underlying zoning classification, without the benefit of the ALF use.

6. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
7. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set out hands and seals at

Miami, Florida, this

11th day of April 2011.

Miami-Dade
(location)

Signed sealed and delivered in the presence of:

Attest:

Secretary:

Typed/Printed Name Luis E. Benitez

Name of Corporation:

ACL & J, LLC, a Florida limited liability company

Signed, sealed and delivered in the presence of:

By:

Luis E. Benitez, Member-Manager

Witness EDUARDO R. YAVES.

Typed/Printed Name

Luis E. Benitez, Member-Manager

Typed/Printed Name

Witness

Typed/Printed Name Mike Penate

Corporate Seal

DECLARATION OF RESTRICTIVE COVENANTS

STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me on this
Luis E. Benitez as Member Manager,

11th day of April 2011

2010 by

Luis E. Benitez
(Name of Officer or Agent)

ACL & J, LLC, a
(Name of Corporation)

Florida limited liability corporation.
(State or Place of Incorporation).

He is personally known to me or has produced the following
as identification and did (did not) take an oath and who attest to the truth and accuracy of the representations
contained herein.

This document was prepared by:

Name

Street

City

State

Zip Code

Attest:

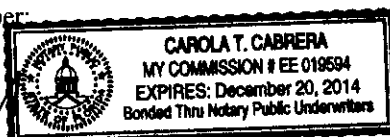
David Concepcion, Acting City Clerk

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Carola T. Cabrera
Signature of Notary Public

Carola T. Cabrera
Name of notary typed, printed, or stamped

Commission Number:



City Of Hialeah, Florida

Julio Robaina
Mayor

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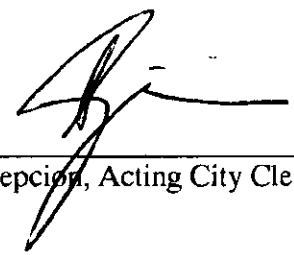
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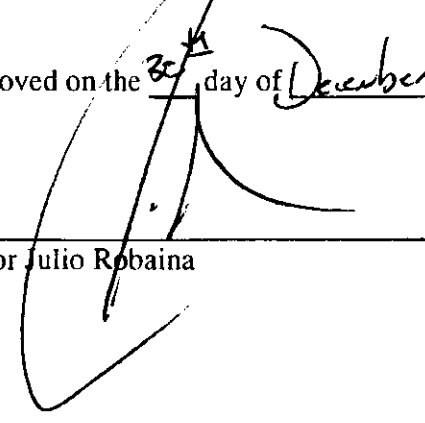
Carlos Hernandez
Council President

Attest:



David Concepcion, Acting City Clerk

Approved on the 30th day of December, 2010.



Mayor Julio Robaina

Approved as to legal sufficiency and form:



William M. Grodnick, City Attorney



13050 NW 70 Ave, Opa-locka, Florida 33054 Call Us: (305) 421-5905 ©2010 SMDI, USA Inc

RECORDERS NOTE
This document was received in
poor condition.